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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,444	06/26/2001	Kazuhiro Tsujita	Q65160	9702

7590 04/19/2007  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202

EXAMINER
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RAMIREZ, JOHN FERNANDO

ART UNIT	PAPER NUMBER
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3737

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/888,444	TSUJITA, KAZUHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	John F. Ramirez	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see remarks, filed 04/02/07, with respect to claims 1-3, 5 and 12 under 103 rejection have been fully considered and are persuasive.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Therefore, the following new office action is provided in order to expedite the prosecution of this application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faupel et al. (US 6,975,899) in view of Hattori (US 4,422,457).

The Faupel et al. patent teaches all the limitations of the claimed subject matter except for mentioning specifically a contact detecting means for detecting that the distal end of excitation light emitting means has come into contact with the target tissue, and the distance parameter detecting means for detecting a parameter correlating the distance between the distal end of excitation light emitting means and the target tissue.

However, a fluorescent-light image obtaining apparatus including a contact detecting means for detecting that the distal end of excitation light emitting means has come into contact with the target tissue, and the distance parameter detecting means for detecting a parameter correlating the distance between the distal end of excitation light emitting means and the target tissue are considered conventional in the art as evidenced by the teachings of Hattori (US 4,422,457) (see abstract, col. 1, lines 55-68, col. 3 line 46 - col. 4 line 17, col. 5, lines 12-38).

Accordingly for a person of ordinary skill in the art, modifying the method disclosed by Faupel et al., with a contact detecting means for detecting that the distal end of excitation light emitting means has come into contact with the target tissue, and the distance parameter detecting means for detecting a parameter correlating the distance between the distal end of excitation light emitting means and the target tissue as taught by Hattori would have been considered obvious in view of the proven conventionality of these enhancements.

Claims 4, 6-11, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faupel et al. in view of Cline et al. (US 6,462,770).

Faupel et al. teaches all the limitations of the claimed subject matter except for mentioning specifically a fluorescent light image system wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a fluorescent-light image obtained by the fluorescent-light image obtaining means, wherein the parameter is the light intensity of the normal-image obtained by the normal-image obtaining

means, wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a normal-image obtained by the normal-image obtaining means, further comprising reference-light emitting means for projecting a reference-light onto the target tissue, and reflected-light image obtaining means for obtaining a reflected-light image reflected from the target tissue upon irradiation thereof by the reference-light, wherein said parameter is based on the light intensity of the reflected-light image obtained by the reflected-light image obtaining means, wherein said excitation light emission controlling means causes the emission of the excitation light from the excitation light emitting means to stop, wherein said excitation light emission controlling means causes the excitation light from the excitation light emitting means to be emitted at an intensity below a predetermined value, and the strength of the excitation light is controlled at the same time as the strength of the illuminating light.

However, a fluorescent light image system wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a fluorescent-light image obtained by the fluorescent-light image obtaining means, wherein the parameter is the light intensity of the normal-image obtained by the normal-image obtaining means, wherein the parameter is based on the pixel values of the entire image or a predetermined portion of a normal-image obtained by the normal-image obtaining means, further comprising reference-light emitting means for projecting a reference-light onto the target tissue, and reflected-light image obtaining means for obtaining a reflected-light image reflected from the target tissue upon irradiation thereof by the reference-light, wherein said parameter is based on the light intensity of the reflected-

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light image obtained by the reflected-light image obtaining means, wherein said excitation light emission controlling means causes the emission of the excitation light from the excitation light emitting means to stop, wherein said excitation light emission controlling means causes the excitation light from the excitation light emitting means to be emitted at an intensity below a predetermined value, and the strength of the excitation light is controlled at the same time as the strength of the illuminating light. are considered conventional in the art as evidenced by the teachings of Cline et al. (see abstract, see claims 2, 9, 11, col. 3, lines 11-36, col. 4, lines 39-60 , col. 7, lines 32-55).

Based on the above observations, for a person of ordinary skill in the art, modifying the method disclosed by Faupel et al., with the above discussed enhancements would have been considered obvious because such modifications would optimally adjust the brightness of autofluorescence images and that will objectively quantify the degree of abnormality of the tissue.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John F. Ramirez whose telephone number is (571) 272-8685. The examiner can normally be reached on (Mon-Fri) 7:30 - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JFR

  
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